IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.5554 of 2006

DATE OF DECISION: October 31, 2006

Gurbinder Kaur Dhillon

….Petitioner

VERSUS

Indian Oil Corporation Limited and others

…..Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S. BHALLA

PRESENT: Shri B.S.Guliani, Advocate for the petitioner.
Shri Ashish Kapoor, Advocate for respondents No.1 to 3.
Shri H.S.Bhullar, Advocate for respondents No.4 and 5.

Viney Mittal,J.

Petitioner Smt.Gurbinder Kaur Dhillon has approached this Court for issuance of a writ of Certiorari challenging the communication dated July 26, 2005 (Annexure P.1), whereby the application filed by the petitioner for allotment of a retail outlet dealership of Indian Oil Corporation Limited at Bahadur Hussain, District Gurdaspur has been rejected. Allotment of the aforesaid retail outlet dated October 21, 2005 in favour of respondents No.4 and 5 has also been challenged.

In pursuance to an advertisement dated February 13, 2005 inviting applications for the award of retail outlet dealership of Indian Oil Corporation Limited for different areas of Punjab, Jammu

and Kashmir and Himachal Pradesh, the petitioner applied for such allotment through an application dated February 25, 2005. Alongwith the application, she attached the requisite documents and also the details of the land for setting up the retail outlet. The petitioner claimed that she was the nominee and daughter-in-law of the owners of the land. The application filed by the petitioner was processed. She was also invited for an interview which was originally scheduled for June 2, 2005. However, the said interview did not take place on the scheduled date and was adjourned. In the meantime, the petitioner received a communication dated July 26, 2005 (Annexure P.1), whereby she was communicated that her application had been rejected on account of the fact that she was not the land owner but holding a power of attorney from the land owners Smt. Karanjit Kaur and Smt. Satwant Kaur. The petitioner was informed that her application for selection of a retail outlet dealership could not be considered.

The petitioner has challenged the aforesaid communication (Annexure P.1) through the present petition. In the meantime, the retail outlet has been allotted in favour of respondents No.4 and 5. The petitioner has challenged the aforesaid allotment as well.

The claim of the petitioner has been contested by the respondents. A detailed written statement has been filed on behalf of respondents No.1 to 3. It has been maintained in the written statement that since the petitioner did not own any land, nor was the nominee of any such person, who were so described in the advertisement

(Annexure P.1), therefore, the petitioner was not entitled to be considered for allotment of retail outlet.

We have heard Shri B.S.Guliani, the learned counsel appearing for the petitioner and Shri Ashish Kapoor, the learned counsel appearing for respondents No.1 to 3 and Shri H.S.Bhullar, the learned counsel appearing for respondents No.4 and 5.

Shri B.S.Guliani, the learned counsel appearing for the petitioner has referred to the advertisement (Annexure P.2) and contended that it was specifically stipulated in the said advertisement that the applicants for the allotment of a retail outlet dealership were required to be a person/persons, who are holders of suitable land for retail outlet/lease/renewal of lease for at least 19 years and 11 months. According to the learned counsel, such an applicant could also be a nominee out of family, owning the land. The learned counsel has also referred to the fact that the petitioner was a special attorney of Smt. Satwant Kaur and Smt. Karanjit Kaur, the owners of the land and was the daughter-in-law of Satwant Kaur. On the basis of the aforesaid facts, the learned counsel maintains that the petitioner was duly eligible to be considered for allotment of a retail outlet.

On the other hand, Shri Ashish Kapoor, the learned counsel appearing for the respondent Indian Oil Corporation has maintained that the stipulations in the advertisement (Annexure P.2) specifically provided that it was only the owner of the land or a nominee out of the family, as detailed in the advertisement, who could be treated as eligible for applying the retail outlet dealership. The learned counsel maintains that although Satwant Kaur, being mother-in-law of the petitioner could be treated to be such relation

which was covered under the relationships detailed out in the advertisement but Smt. Karanjit Kaur, the co-owner of the land was sister-in-law of the aforesaid Satwant Kaur and as such was not even in any such relationships as were so detailed. Shri Kapoor has also maintained that merely because the petitioner was claiming herself to be a special attorney of the two landowners, could not make her eligible for applying for the retail outlet.

Shri H.S.Bhullar, the learned counsel appearing for respondents No.4 and 5 has contended that the petitioner was not in any way eligible for the allotment of retail outlet as per the advertisement (Annexure P.2). The learned counsel further maintains that the retail outlet has been allotted to respondents No.4 and 5 and as such the aforesaid allotment being, in accordance with the rules, the same could not be challenged by the petitioner in any manner.

We have duly considered the aforesaid rival contentions of the learned counsel for the parties.

At the outset, the stipulations contained in the advertisement (Annexure P.2) with regard to eligibility of the applicants for purposes of allotment of the retail outlet may be noticed as follows:

> "The Indian Oil Corporation invite applications for the above noted purposes from the person/persons who are holders of suitable land for retail outlet/lease/renewal of lease for at least 19 years 11 month. Please carefully read the following conditions:

If the location of the land is found proper then the owner of the land or its nominee out of the family such as husband/wife, mother/father, brother/brother's wife, son/daughter in law, daughter/son in law, grand son/grand daughter, daughter's son/daughter's daughter or their husbands/wives, can apply for dealership."

It is not in dispute that the land on which the petitioner proposed to set up the retail outlet and the details whereof were provided to the Corporation alongwith the application belongs to Smt.Satwant Kaur and Smt. Karanjit Kaur**.**

It is also not in dispute that Satwant Kaur is mother-in-law of the petitioner and as such falls in the category of relations mentioned in the family. However, Smt. Karanjit Kaur is sister-in-law of Satwant Kaur and as such she cannot be treated to be such a family member of the petitioner, who are so detailed in the relationships. Even otherwise, we find, as pleaded by the Corporation in the written statement, that the petitioner is merely a special attorney of the aforesaid owners. In the special power of attorney (Annexure R1/1), it has not been stipulated by the owners that the petitioner was in any manner authorised to lease out the land to the company for setting up a retail outlet. In the special power of attorney, the petitioner has been merely authorised to open/establish petrol pump of any company. The said stipulation does not entitle the petitioner to lease out the land to the Corporation for setting up the retail outlet.

For the aforesaid reasons, we find no merit in the present petition. The same is dismissed.

(Viney Mittal)
Judge

October 31, 2006
KD

(H.S. Bhalla)
Judge